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LETTER DATED 15 NOVEMBER 1994 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF ZAIRE TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you a copy of the tripartite agreement on the repatriation of Rwandese refugees from Zaire, signed at Kinshasa on 24 October 1994 by Prime Minister Faustin Twagiramungu, for the Government of the Rwandese Republic; Prime Minister Léon Kengo wa Dondo, for the Government of the Republic of Zaire; and Mr. John McCallin, for the Office of the United Nations High Commissioner for Refugees.

Also attached to this tripartite agreement is the joint communiqué issued at the conclusion of the working visit which the Rwandese Prime Minister made to Zaire from 22 to 24 October 1994.

The Government of Zaire would be grateful if you would have this letter and its annexes circulated as documents of the Security Council.

(Signed) LUKABU KHABOUJI N'ZAJI
Minister Plenipotentiary
Deputy Permanent Representative
Chargé d'affaires a.i.

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Annex I

Tripartite agreement on the repatriation of Rwandese refugees from Zaire

Preamble

The Government of the Rwandese Republic, the Government of the Republic of Zaire and the Office of the United Nations High Commissioner for Refugees (UNHCR), hereinafter referred to as the Contracting Parties,

(a) Recognizing that the rights of all citizens to leave and to return to their country are fundamental human rights enshrined in, inter alia, article 13, paragraph 2, of the Universal Declaration of Human Rights of 1948 and article 12 of the International Covenant on Civil and Political Rights of 1966;

(b) Considering the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969 and, more specifically, article V dealing with voluntary repatriation;

(c) Recalling that United Nations General Assembly resolution 428 (V) of 14 December 1950 establishing the Statute of UNHCR assigns to the High Commissioner the function of providing international protection to refugees and of seeking permanent solutions for refugee problems, inter alia, by promoting and facilitating their voluntary repatriation;

(d) Believing that voluntary repatriation, where feasible, constitutes the most appropriate durable solution for refugee problems and that conclusions 18 (XXXI) and 40 (XXXVI) of the Executive Committee of the Programme of UNHCR establish the internationally recognized principles and norms governing the voluntary repatriation of refugees;

(e) Stressing the importance of the principles contained in the Protocol of Agreement on the Repatriation of Refugees and the Resettlement of Displaced Persons, signed at Arusha on 9 June 1993 by the Government of the Rwandese Republic and the Rwandese Patriotic Front;

(f) Considering the communiqué dated 26 July 1994, issued at the conclusion of the meeting between the President of the Rwandese Republic and the President of the Republic of Zaire, and the joint communiqué issued following the deliberations of the Zairian-Rwandese ministerial meeting held at Goma on 1 September 1994;

(g) Recognizing the need to define the specific procedures and modalities for the voluntary repatriation and final reintegration in Rwanda of Rwandese refugees in Zaire with the assistance of the international community through UNHCR which may, where appropriate, receive support from other United Nations bodies and from intergovernmental and non-governmental organizations;

Have agreed as follows:

RIGHT TO RETURN

Article 1

All Rwandese refugees who wish to return to their country shall have the right to do so without preconditions.

VOLUNTARY CHARACTER OF THE REPATRIATION

Article 2

The Contracting Parties hereby reaffirm that the repatriation of Rwandese refugees in Zaire shall take place only on the basis of their voluntarily expressed wish.

RESPONSIBILITIES OF THE COUNTRY OF ASYLUM: THE REPUBLIC OF ZAIRE

Article 3

The Government of the Republic of Zaire undertakes to guarantee the voluntary character of the repatriation of Rwandese refugees by taking, in consultation with UNHCR, all the steps needed to ensure the implementation of this basic principle inherent in international protection. To this end, it shall adopt all appropriate measures to ensure that the refugees are not unduly influenced. It undertakes to respect the relevant clauses of the Geneva Convention of 1951 and the OAU Convention of 1969 relating to refugees.

Article 4

The Government of the Republic of Zaire shall guarantee unimpeded access by UNHCR to its territory and to the refugees for the purpose of carrying out the repatriation operation.

Article 5

The Government of the Republic of Zaire shall facilitate the departure of Rwandese refugees and shall simplify the border formalities for the export of their property and household goods.

RESPONSIBILITIES OF THE COUNTRY OF ORIGIN: THE RWANDESE REPUBLIC

Article 6

The Government of the Rwandese Republic undertakes to strengthen or, indeed, to establish administrative, police and judicial structures and to make every effort to ensure the return of the refugees under conditions of safety and dignity. To this end, it shall seek support from the international community.

Article 7

The Government of the Rwandese Republic shall take all the measures required to create conditions for the reintegration of the refugees.

Article 8

The Government of the Rwandese Republic shall take all the steps required to inform, create awareness among and prepare the population living in the areas to which the refugees will return, so as to teach both groups to live in harmony without further considerations.

Article 9

The Government of the Rwandese Republic shall simplify the formalities for the return of the refugees, and shall facilitate the import of their property and household goods, which shall be exempt from customs duties in accordance with the regulations in force. Border checkpoint operations shall be limited to the minimum required and shall be carried out with full respect for the basic rights of the returnees.

Article 10

The Government of the Rwandese Republic shall facilitate the efforts of UNHCR during the repatriation operation, including the escort of the refugees and access by UNHCR officials to their places of residence.

Article 11

With a view to ensuring durable social peace and genuine national reconciliation, the Government of the Rwandese Republic shall take all appropriate measures to enable the returnees to resettle in their localities of origin or choice and to ensure the protection of their movable and immovable property. It shall also settle, with all due diligence, disputes relating to the ownership and possession of such property.

Article 12

The Government of the Rwandese Republic, in close cooperation with the Office of the United Nations High Commissioner for Refugees, shall take the necessary measures to ensure the reintegration of all returnees including those who have remained for long periods outside Rwanda.

Article 13

The Government of the Rwandese Republic shall ensure the reintegration of Rwandese refugees into economic and social life and, as far as possible, into the various sectors of the national civil service. It shall guarantee equal enjoyment by such persons of all the economic and social, civil and political rights provided for in domestic law and international law.

Article 14

The Government of the Rwandese Republic shall guarantee unimpeded access by the Office of the United Nations High Commissioner for Refugees to its territory and to returnees for the purpose of implementing the repatriation operation.

RESPONSIBILITIES OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Article 15

The Office of the United Nations High Commissioner for Refugees shall verify through unrestricted access to refugees the voluntary character of their decision to return home.

Article 16

The Office of the United Nations High Commissioner shall establish a presence in the main areas where returnees are resettled in order to facilitate their return in safety and with dignity and to encourage the implementation of measures for their reintegration. Where necessary, it shall request the cooperation of other United Nations agencies and of other organizations in order to respond to the needs of the refugees.

Article 17

The Office of the United Nations High Commissioner shall ensure that unaccompanied women and minor children who are refugees receive protection and special attention in order to guarantee their fundamental rights and the unity of their families.

Article 18

The Office of the High Commissioner shall also ensure that Rwandese refugees who choose not to return home continue to benefit from asylum in the territory of Zaire until such time as they can return to their country of origin in safety and with dignity.

Article 19

The Office of the High Commissioner shall ensure the coordination and mobilization of the financial and logistical resources necessary for the implementation of the operation.

THE SUBCOMMISSION RESPONSIBLE FOR REPATRIATION ISSUES

Article 20

A Subcommission responsible for repatriation issues has been established following the Zairian-Rwandese ministerial meeting held on 1 September 1994 at Goma.

Article 21

The Subcommission shall consist of 16 members. The Government of the Republic of Zaire and the Government of the Rwandese Republic shall each appoint seven members from the following ministries:

- Cabinet of the Prime Minister;
- Ministry of the Interior;
- Ministry of Justice;
- Ministry of Defence;
- Ministry of Foreign Affairs;
- Ministry of Social Affairs;
- Ministry of Rehabilitation, Social Integration and International Cooperation.

The Office of the United Nations High Commissioner for Refugees shall be represented on the Subcommission by two members, one of whom shall be appointed from its delegation in Rwanda and the other from its delegation in Zaire. The Subcommission shall be chaired alternately by a representative of the Republic of Zaire and by a representative of the Rwandese Republic. The Chairman of the Subcommission shall appoint a rapporteur for the meeting and shall determine the date and venue of the following meeting.

Article 22

The Subcommission shall hold its first meeting no later than during the month following the date of appointment of its members and shall adopt its rules of procedure. It shall meet at least once every two months. Extraordinary meetings may be convened at the express request of either of the parties to this

agreement. Meetings of the Subcommission shall be held in the territory of Zaire or Rwanda or, where necessary, in that of a third country. Where the Subcommission deems appropriate, it may invite or authorize any person or organization concerned with the repatriation operation to participate in its deliberations as an observer. The deliberations of the Subcommission shall be recorded in reports which shall be transmitted to the contracting parties.

Article 23

The Subcommission shall be responsible for monitoring the implementation of measures to facilitate the voluntary return of Rwandese refugees and the integration of the returnees into their communities of origin. It shall ensure compliance with the terms of this agreement, particularly those relating to the safety of returnees and assistance to them.

The Subcommission shall inform the contracting parties of the progress made and the difficulties encountered. It shall recommend to them, in consequence, all measures which may be taken to overcome those difficulties.

Article 24

The Subcommission shall undertake missions to Zaire and Rwanda after informing the contracting parties of its programme. The contracting parties shall facilitate these missions of the Subcommission, and in particular, shall provide unimpeded access to Rwandese refugees and returnees. The Subcommission shall visit the sites where returnees have been resettled in order to verify that the measures necessary for their repatriation in conditions of safety and dignity have been taken, and shall ensure that the necessary measures have been taken to facilitate the reception of returnees. It shall propose appropriate solutions to any problems observed.

Article 25

The Subcommission shall organize campaigns aimed at disseminating among Rwandese refugees in Zaire relevant information concerning repatriation so that the refugees in question will have all the necessary information to enable them to decide whether to return home. Where necessary, it shall facilitate visits to Rwanda by representatives of the refugees to enable them to assess for themselves the prevailing situation and to report back later to their people.

Article 26

The Subcommission shall establish methods for the registration of refugees wishing to return to Rwanda.

Article 27

The Subcommission shall agree on the border posts to be used for organized movements of refugees returning home of their own free will.

Article 28

In order to facilitate the task of the Subcommission, the contracting parties shall provide, at the request of the Subcommission, all information and logistics necessary for the implementation of this agreement.

FINAL CLAUSES

Article 29

This agreement shall enter into force upon its signature by the contracting parties.

Article 30

Any dispute which arises from the interpretation or application of this agreement, or which has not been expressly provided for in the text of the agreement, shall be amicably resolved through consultations between the contracting parties.

Article 31

This agreement may be amended by mutual agreement between the signatories.

Article 32

This agreement shall remain in force unless it is denounced by mutual agreement between the signatories or by written notice of unilateral denunciation by one signatory to the other signatories. Such denunciation shall take effect 90 days from the date on which the notice is given.

In witness whereof, this agreement has been signed below by the duly authorized representatives of the contracting parties.

Done at Kinshasa on 24 October 1994.

For the Government of the Rwandese Republic:

(Signed) Faustin TWAGIRAMUNGU
Prime Minister

For the Government of the Republic of Zaire:

(Signed) Léon KENGO wa DONDO
Prime Minister

For the Office of the United Nations High Commissioner for Refugees:

(Signed) John McCALLIN
Deputy Special Envoy of the High Commissioner for the Rwanda Crisis

Annex II

Joint communiqué dated 24 October 1994 by the Prime Minister of Zaire and the Prime Minister of Rwanda

1. At the invitation of H.E. Mr. Léon Kengo wa Dondo, Prime Minister of the Republic of Zaire, H.E. Mr. Faustin Twagiramungu, Prime Minister of the Rwandese Republic, paid a working visit to the Republic of Zaire from 22 to 24 October 1994.

2. The Rwandese delegation was led by H.E. Mr. Faustin Twagiramungu, Prime Minister of the Rwandese Republic, assisted by Mr. Charles Ntakirutinka, Minister of Public Works and Energy; the delegation of Zaire was led by H.E. Mr. Léon Kengo wa Dondo, Prime Minister, assisted by Mr. Gustave Malumba Mbangula, Deputy Prime Minister and Minister of the Interior, Senior Admiral Mavua Mudima, Deputy Prime Minister and Minister of Defence, Gérard Kamanda wa Kamanda, Deputy Prime Minister and Minister of Justice, Garde des Sceaux and Minister of Institutional Reforms, Ms. Soki Fuani Eyenga, Minister of Social Affairs and Mr. Mukulumanya wa Ngate Zenda, Deputy Minister for Foreign Affairs.

3. During their talks, the two heads of Government reviewed the state of relations between Zaire and Rwanda.

4. The two delegations gave special consideration to the question of Rwandese refugees in Zaire. In this connection, the two heads of Government and UNHCR proceeded to sign the tripartite agreement on the repatriation of Rwandese refugees from Zaire.

5. In addition to the question of the repatriation of Rwandese refugees in Zaire, the two heads of Government discussed the issue of the alleged perpetrators of various crimes committed in Rwanda who have taken refuge in Zaire.

6. The Government of Zaire undertakes to respect the provisions of the Declaration on Territorial Asylum and reaffirms its desire to pursue cooperation with the United Nations within the framework of the proceedings to be instituted against the perpetrators of the massacres and genocide in Rwanda.

7. In the area of mutual security, the two heads of Government undertake not to allow the territory of one to be used as a base for destabilizing the other.

8. Moreover, the two heads of Government have agreed to bring into operation, during the first two weeks of November 1994, the subcommissions established following the Goma ministerial meeting, which had been given responsibility for considering, by mutual agreement, problems relating to:

(a) The repatriation of Rwandese refugees;

(b) Mutual security; and

(c) Property, for the purposes of restitution of Rwandese property and reparation for the damage suffered by Zaire.

9. The meeting between the two heads of Government enabled the Republic of Zaire to renew its appeal to the international community to assist it in ensuring the removal from proximity to the common borders of Rwandese former soldiers and dignitaries in Northern Kivu and Southern Kivu until such time as another host country is found for them.

10. The two heads of Government appeal urgently to the international community to assist the Rwandese Republic in creating conditions for the reintegration of Rwandese refugees, in particular by setting up intake centres in Rwandese territory. These centres shall be freely accessible to UNHCR officials and those of other agencies of the United Nations system in the context of the performance of their respective mandates.

11. The two heads of Government have expressed the wish for the activities of the Economic Community of the Great Lakes Countries to commence as soon as possible.

12. The talks between the two heads of Government have taken place in an atmosphere of candour and mutual understanding.

Done at Kinshasa on 24 October 1994.

For the Republic of Zaire:

(Signed) Léon KENGO wa DONDO
Prime Minister

For the Rwandese Republic:

(Signed) Faustin TWAGIRAMUNGU
Prime Minister